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*Washington, Tuesday, January 18, 1938*

## TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4790]

**MODIFYING SPECIALLY DENATURED ALCOHOL FORMULA NO. 29**  
*To District Supervisors, Chemists in Charge, Authorized Chemists, and Others Concerned:*

Pursuant to authority conferred by the Act of June 7, 1906 (U. S. C., 1934 Ed., Title 26, Sec. 1320), and Title III of the National Prohibition Act, specially denatured alcohol Formula No. 29 is hereby amended to read as follows:

To every 100 gallons of ethyl alcohol of not less than 190° proof add

1 gallon of 100 per cent acetaldehyde or  
5 gallons of an alcoholic solution of acetaldehyde containing not less than 20 per cent acetaldehyde or  
5 parts by weight if solid, or volume if liquid, of any chemical produced from ethyl alcohol.

This formula is restricted to processes where the alcohol loses its identity as alcohol by being converted into other chemicals. Where it is desired to use any chemical produced from ethyl alcohol other than acetaldehyde as the denaturant for Formula No. 29, the use of such chemical shall be subject to approval by the Commissioner.

[SEAL]

CHAS. T. RUSSELL,  
*Acting Commissioner of Internal Revenue.*

Approved, January 13, 1938.

ROSWELL MAGILL,  
*Acting Secretary of the Treasury.*

[F. R. Doc. 38-147; Filed, January 15, 1938; 12:06 p. m.]

## DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 158-FD]

IN THE MATTER OF PYRAMID COAL CORPORATION

### NOTICE OF HEARING

A petition having been filed with this Commission by Pyramid Coal Corporation, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10,<sup>1</sup> the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary

<sup>1</sup> 2 F. R. 3056, 3260, 3379 (DI).

of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.<sup>1</sup>

By the Commission.

January 14, 1938.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-151; Filed, January 15, 1938; 12:10 p. m.]

[Docket No. 159-FD]

IN THE MATTER OF PATOKA COAL COMPANY

### NOTICE OF HEARING

A petition having been filed with this Commission by Patoka Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, in competition with District No. 10, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 11,<sup>2</sup> the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.<sup>1</sup>

By the Commission.

January 14, 1938.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-152; Filed, January 15, 1938; 12:12 p. m.]

[Docket No. 160-FD]

IN THE MATTER OF TRUAX-TRAEER COAL COMPANY

### NOTICE OF HEARING

A petition having been filed with this Commission by Truax-Traer Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10,<sup>2</sup> the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary

<sup>1</sup> 2 F. R. 3185 (DI).

<sup>2</sup> 2 F. R. 3062, 3318, 3380 (DI).

<sup>3</sup> 2 F. R. 3056, 3260, 3379 (DI).





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of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.<sup>1</sup>

By the Commission.  
January 14, 1938.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 38-153; Filed, January 15, 1938; 12:12 p. m.]

[Docket No. 161-FD]

### IN THE MATTER OF UNITED ELECTRIC COAL COMPANY NOTICE OF HEARING

A petition having been filed with this Commission by United Electric Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10,<sup>2</sup> the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.<sup>1</sup>

By the Commission.  
January 14, 1938.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 38-154; Filed, January 15, 1938; 12:12 p. m.]

[Docket No. 181-FD]

### IN THE MATTER OF BELL AND ZOLLER COAL AND MINING COMPANY ET AL NOTICE OF HEARING

A petition having been filed with this Commission by Bell and Zoller Coal and Mining Company et al, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, in competition with District No. 11, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10,<sup>2</sup> the above entitled proceeding is assigned for hearing on February 7th, 1938, at 10:00

<sup>1</sup> 2 F. R. 3186 (DI).

<sup>2</sup> 2 F. R. 3056, 3260, 3379 (DI).



A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.<sup>1</sup>

By the Commission.

January 14, 1938.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 38-148; Filed, January 15, 1938; 12:10 p. m.]

[Docket No. 184-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 4

NOTICE OF HEARING

A petition having been filed with this Commission by Bituminous Coal Producers Board for District No. 4, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by code members within District No. 4 in competition with District No. 8, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 4,<sup>2</sup> the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.<sup>3</sup>

By the Commission.

January 14, 1938.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 38-150; Filed, January 15, 1938; 12:10 p. m.]

[Docket No. 185-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 6

NOTICE OF HEARING

A Petition having been filed with this Commission by Bituminous Coal Producers Board for District No. 6, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by Code members within District No. 6 in competition with Districts Nos. 2, 3, 7 and 8, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 6,<sup>4</sup> the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.<sup>5</sup>

By the Commission.

January 14, 1938

[SEAL]

F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 38-149; Filed, January 15, 1938; 12:10 p. m.]

<sup>1</sup> 2 F. R. 3186 (DI).

<sup>2</sup> 2 F. R. 3022, 3257, 3378 (DI).

<sup>3</sup> 2 F. R. 3029, 3259, 3379 (DI).

[Docket No. 189-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 2

NOTICE OF HEARING

A Petition having been filed with this Commission by Bituminous Coal Producers Board for District No. 2, pursuant to Section 4-11 (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by code members within District No. 2, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2,<sup>1</sup> the above entitled proceeding is assigned for hearing on January 31, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.<sup>2</sup>

By the Commission.

January 14, 1938.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 38-155; Filed, January 15, 1938; 12:12 p. m.]

[Docket No. 123-FD]

IN THE MATTER OF SHIRLEY GAS COAL CORPORATION

TEMPORARY ORDER

The Shirley Gas Coal Corporation, having filed a petition with the Commission pursuant to the provisions of Section 4, Part II (d) of the Act, alleging dissatisfaction with certain of the Minimum Prices Established for Coals of the Petitioner within District No. 2, and praying for immediate and temporary relief as therein set forth by preliminary and temporary order pending final disposition of such petition, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of temporary relief prayed for therein to the extent hereinafter provided:

Now, therefore, The National Bituminous Coal Commission pursuant to the provisions of subsection (d) of Part II of Section 4 of the Bituminous Coal Act of 1937 hereby orders:

1. That pending final disposition of the aforesaid petition and/or until further order of the Commission, the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2,<sup>3</sup> be and the same hereby are modified and revised to contain the following provisions as if the same were fully set forth therein:

"Coals produced by the Shirley Gas Coal Corporation at its 'Shirley' mine in the Brookville seam in the Butler-Mercer District within District No. 2 shall take the following minimum prices f. o. b. mine, subject to designated base rate adjustments, as provided for in Price Schedule No. 1 and supplements thereto for District No. 2:

For delivery and consumption within Youngstown, Ohio, in Market Area No. 7:

2" x 0"	\$1.74
1 1/4" x 0"	1.68
3/4" x 0"	1.55

For delivery to all other points within Market Area No. 7, within the State of Ohio only:

2" x 0"	\$1.65
1 1/4" x 0"	1.57
3/4" x 0"	1.46

<sup>1</sup> 2 F. R. 3010, 3272, 3376, 3384 (DI); 3 F. R. 100 (DI).

<sup>2</sup> 2 F. R. 3186 (DI).

<sup>3</sup> 2 F. R. 3010, 3272, 3376 (DI); 3 F. R. 100 (DI).



For delivery to all points within Market Area No. 8:

2' x 0'-----	\$1.75
1 1/4' x 0'-----	1.67
3/4' x 0'-----	1.56

2. That except as herein temporarily revised, the minimum price schedules, and supplements thereto, established for District No. 2, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. The Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 2; shall cause a copy of this Order to be made available for inspection by all interested parties in the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission, and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 14th day of January, 1938.

[SEAL]

F. WITCHER McCULLOUGH, Secretary.

[F. R. Doc. 38-171; Filed, January 17, 1938; 12:46 p. m.]

#### RULING REGARDING DEDUCTIONS OR ALLOWANCES FROM INVOICES FOR ADVERTISING

The Commission directs the attention of Code Members, Sales Agents and Wholesalers who have made application for registration to the Commission, to Section XI of the Marketing Rules and Regulations<sup>1</sup> promulgated by the Commission which prohibits a deduction or allowance from invoices of Code Members or Sales Agents for the purported purpose of defraying advertising costs. Such Marketing Rules and Regulations provide that if advertising is to be conducted, the cost therefor should be defrayed in some other manner.

Any Code Member allowing a deduction or allowance from invoices for advertising, directly or through a Sales Agent, is liable to expulsion from the Code and the registration of any Wholesaler allowing same in like manner may be withheld or revoked.

The Secretary of the Commission is directed to mail a copy of this Ruling to each Code Member and Wholesaler who has made application for registration to the Commission. All Code Members are directed to inform their Sales Agents of this Ruling.

By the Commission.

Dated this 15th day of January, 1938.

[SEAL]

F. WITCHER McCULLOUGH, Secretary.

[F. R. Doc. 38-169; Filed, January 17, 1938; 12:46 p. m.]

#### RULING REGARDING SALES TO STATE, TERRITORIAL OR FEDERAL GOVERNMENTS

The Commission has received numerous inquiries from Code Members for interpretation of the Bituminous Coal Act of 1937 in so far as it relates to sales for the exclusive use of the United States or any State or Territory of the United States or the District of Columbia, or any political subdivision of any of them, for use in the performance of governmental functions.

Section 3 (e) of the Act provides that the excise tax of 1 cent per ton of two thousand pounds imposed by Section 3 (a) of the Act shall not apply in the case of sales of coal to the above enumerated purchasers when such purchases are for use in the performance of governmental functions. Section 4, Part II (e) provides that no coal subject to the provisions of this section shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefor established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum

or above such maximum, shall constitute a violation of the code.

The Commission construes the above referred sections of the Act in light of the intent of Congress as permitting a reduction of 1 cent per ton of two thousand pounds below the minimum price established for such coal when sold for the exclusive use of the United States or any State or Territory of the United States or the District of Columbia, or any political subdivision of any of them, for use in the performance of governmental functions.

The Bureau of Internal Revenue has provided in Regulations 98, Chapter IV, Article 31,<sup>2</sup> the procedure by which exemption from tax on such sales may be obtained.

The Secretary of the Commission is directed to mail a copy of this Ruling to all Code Members.

By the Commission.

Dated this 15th day of January, 1938.

[SEAL]

F. WITCHER McCULLOUGH, Secretary.

[F. R. Doc. 38-170; Filed, January 17, 1938; 12:46 p. m.]

#### DEPARTMENT OF AGRICULTURE.

##### Agricultural Adjustment Administration.

##### DETERMINATION OF WAGE RATES, PRODUCTION, ETC., 1938 CROP OF SUGAR BEETS

##### NOTICE OF HEARINGS AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Sections 301 (b) and (d) and 511 of the Sugar Act of 1937 (Public No. 414, 75th Congress),

Notice is hereby given that public hearings will be held as follows:

For northern California, at Sacramento, California, in the Auditorium of the Chamber of Commerce Building, 917 Seventh Street, on January 24, 1938, at 9:00 a. m.

For southern California, at Los Angeles, California, in the Assembly Room of the California State Building, on January 27, 1938, at 9:00 a. m.

For Utah, at Salt Lake City, Utah, in the Hotel Utah, on January 31, 1938, at 9:00 a. m.

For Idaho, Washington, and Oregon, at Pocatello, Idaho, in the Grand Jury Room of the Federal Building, on February 3, 1938, at 9:00 a. m.

For western and southern Colorado, Kansas, and New Mexico, at Pueblo, Colorado, in the Court Room of the County Court House, on February 7, 1938, at 9:00 a. m.

For northern Colorado, at Greeley, Colorado, in the Marble Court Room, 4th floor of the Court House, on February 10, 1938, at 9:00 a. m.

For Nebraska and southern Wyoming, at Scottsbluff, Nebraska, in the Odd Fellows Hall, on February 14, 1938, at 9:00 a. m.

For Montana, northern Wyoming, South Dakota, and western North Dakota, at Billings, Montana, in the Commercial Club, on February 17, 1938, at 9:00 a. m.

For Minnesota, eastern North Dakota, and Iowa, at St. Paul, Minnesota, in the Hotel St. Paul, on February 21, 1938, at 9:00 a. m.

For Wisconsin, Illinois, and the Upper Peninsula of Michigan, at Milwaukee, Wisconsin, in the Court Room, 408 Court House, on February 23, 1938, at 9:00 a. m.

For the Lower Peninsula of Michigan, at Saginaw, Michigan, in the Auditorium of the Board of Commerce Building, on February 24, 1938, at 9:00 a. m.

For Ohio, Indiana, and southeastern Michigan, at Toledo, Ohio, in Room 418 of the New Federal Building, on February 28, 1938, at 9:00 a. m.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301 (b) of

<sup>1</sup> 2 F. R. 2983, 3330, 3237 (DI).

<sup>2</sup> 2 F. R. 1283 (DI).



the said act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1938 crop of sugar beets on farms with respect to which applications for payments under the act are made, and, (2) pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1937 and 1938 crops of sugar beets to be paid under either purchase of toll agreements, by processors who as producers apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of the said act, with respect to the terms and conditions of contracts between producers and processors of sugar beets.

Any of such hearings, after being called to order at the time and place mentioned above, may for convenience be adjourned to such other place in the same city as the presiding officer may designate, and may be continued from day to day within the discretion of the presiding officer.

R. B. Tyler and William T. Ham are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C., this 14th day of January, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-146; Filed, January 15, 1938; 10:12 a. m.]

#### Bureau of Animal Industry.

[Amendment 13 to B. A. I. Order 353]

#### AMENDMENT OF ORDER TO PREVENT THE INTRODUCTION INTO THE UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

JANUARY 14, 1938.

Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (46 Stat. 590-689), the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 353), dated June 1, 1935, and effective August 1, 1935, as amended, is hereby further amended by adding the Channel Islands (in the English Channel) to the list of countries in said order, as I have determined that foot-and-mouth disease now exists in the said Channel Islands and I have so officially notified the Secretary of the Treasury.

This amendment, which for purpose of identification is designated Amendment 13 to B. A. I. Order 353, shall be effective on and after January 15, 1938.

Done at Washington this 14th day of January 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

M. L. WILSON,  
Acting Secretary of Agriculture.

[F. R. Doc. 38-145; Filed, January 14, 1938; 4:16 p. m.]

#### Farm Security Administration.

##### DESIGNATION OF COUNTIES

###### IDAHO

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Idaho State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Jerome.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-168; Filed, January 17, 1938; 12:37 p. m.]

##### DESIGNATION OF COUNTIES

###### MICHIGAN

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Michigan State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Berrien, Gratiot, Antrim.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-162; Filed, January 17, 1938; 12:36 p. m.]

##### DESIGNATION OF COUNTIES

###### MINNESOTA

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Minnesota State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Freeborn, Martin, Otter Tail, Roseau, Stevens.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-163; Filed, January 17, 1938; 12:36 p. m.]

##### DESIGNATION OF COUNTIES

###### OREGON

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Oregon State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Linn.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-164; Filed, January 17, 1938; 12:36 p. m.]

##### DESIGNATION OF COUNTIES

###### PENNSYLVANIA

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Pennsylvania State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Crawford, Franklin, Tioga, Washington.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-167; Filed, January 17, 1938; 12:37 p. m.]



## DESIGNATION OF COUNTIES

## UTAH

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration, Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Utah State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Utah.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-166; Filed, January 17, 1938; 12:37 p. m.]

## DESIGNATION OF COUNTIES

## WISCONSIN

JANUARY 15, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Wisconsin State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Dodge, Grant, Langlade, St. Croix.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-165; Filed, January 17, 1938; 12:36 p. m.]

## DEPARTMENT OF LABOR.

## Immigration and Naturalization Service.

[General Order No. 255.]

## NATURALIZATION OF ALIENS MARRIED TO CITIZENS OF THE UNITED STATES

JANUARY 13, 1938.

By virtue of and pursuant to the authority vested in me under R. S. Section 161 (U. S. C., title 5, section 22), and other provisions of law, the administrative interpretation of Section 4 of the Act of May 24, 1934 (48 Stat. 797; U. S. C., title 8, section 368), amending Section 2 of the Act of September 22, 1922, contained in General Order No. 211, dated August 2, 1934, under the title "Naturalization of Alien Married to a Citizen", is hereby amended to read as follows:

Sec. 4 a. An alien women who married a citizen of the United States after 12 noon (E. S. T.), May 24, 1934, or whose husband was naturalized after that time, or an alien man who married a citizen of the United States on or after September 22, 1922, or whose wife was naturalized on or after that date, may be naturalized upon full and complete compliance with all requirements of the naturalization laws with the following exceptions:

(1) No declaration of intention shall be required.

(2) In lieu of the five-year period of residence within the United States, the six-month period of residence in the county, and the one-year period of residence within the State or Territory where the naturalization court is held, he or she shall have resided continuously in the United States, Hawaii, Alaska, or Puerto Rico for at least three years immediately preceding the filing of the petition.

b. An alien woman who married a citizen of the United States on or after September 22, 1922, and before 12 noon

(E. S. T.), May 24, 1934, or whose husband was naturalized within that period may be naturalized upon full and complete compliance with all requirements of the naturalization laws with the following exceptions:

(1) No declaration of intention shall be required.

(2) In lieu of the five-year period of residence within the United States, the six-month period of residence in the county, and the one-year period of residence within the State or Territory where the naturalization court is held, she shall have resided continuously in the United States, Hawaii, Alaska, or Puerto Rico for at least one year immediately preceding the filing of the petition.

## REGULATIONS

By virtue of and pursuant to authority conferred by Section 28 of the Naturalization Act of June 29, 1906 (34 Stat. 606; U. S. C., title 8, section 356), as amended by Section 8 of the Act of March 2, 1929 (45 Stat. 1515), and Executive Order No. 6166, dated June 10, 1933, Rule 3, Subdivision D, Paragraph 1, subparagraph g, is amended to read as follows:

(1) Where petition is executed by an alien woman who married a citizen of the United States after 12 noon (E. S. T.), May 24, 1934, or whose husband was naturalized after that time, or an alien man who married a citizen of the United States on or after September 22, 1922, or whose wife was naturalized on or after that date—

Strike out all of allegation 4.

Insert allegations 5 "my {husband } is a United States

citizen by {birth } also insert the date and court, if naturalized. Insert in allegation 9 the word "three" in lieu of "five" and strike out from said allegation the words "being a residence within said county of at least six months next preceding the date of this petition."

In the space immediately preceding allegation 10, insert the words "petition filed under Section 2 of the Act of September 22, 1922, as amended."

In the first paragraph after allegation 10, strike out the words "my declaration of intention to become a citizen of the United States."

In certificate following the jurat, strike out the words "together with declaration of intention No. ----- of such petitioner."

(2) Where petition is executed by an alien woman who married a citizen of the United States on or after September 22, 1922, and before 12 noon (E. S. T.), May 24, 1934, or whose husband was naturalized within that period—

Strike out all of allegation 4.

Insert in allegation 5, "my husband is a United States citizen by {birth, } also insert the date and court, if naturalized.

Insert in allegation 9, the word "one" in lieu of "five" and strike out from said allegation the words "being a residence within said county of at least six months next preceding the date of this petition."

In the space immediately preceding the allegation 10, insert the words "petition filed under Section 2 of the Act of September 22, 1922." In the first paragraph after allegation 10, strike out the words "my declaration of intention to become a citizen of the United States." In certificate following the jurat, strike out the words "together with declaration of intention No. ----- of such petitioner."

(3) Rescinded.

[SEAL]

JAMES L. HOUGHTLING,  
Commissioner of Immigration and Naturalization.

Approved.

FRANCES PERKINS,  
Secretary.

[F. R. Doc. 38-156; Filed, January 17, 1938; 11:10 a. m.]



## FEDERAL TRADE COMMISSION.

*United States of America—Before Federal Trade Commission*

At a regular meeting of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3263]

IN THE MATTER OF AGRICULTURAL LABORATORIES, INC., A CORPORATION

## FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C. title 15, sec. 13), the Federal Trade Commission on November 10, 1937, issued and served its complaint in this proceeding upon the respondent, Agricultural Laboratories, Inc., a corporation, charging it with discriminating in price between different purchasers of inoculants in violation of subsection (a) of Section 2 of the aforesaid Act.

After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel having been waived, and the Commission having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. Said corporate respondent, Agricultural Laboratories, Inc., now is, and at all times since June 19, 1936, has been a corporation organized under the laws of the State of Ohio, with its principal office and plant located at 3415 Milton Avenue, Columbus, Ohio. At all times herein mentioned, said respondent has been engaged in the business of developing, selling and distributing certain nitrogen fixing bacteria, useful for inoculating the seeds of leguminous plants, from its said place of business in the State of Ohio to various purchasers of said bacteria located in the State of Ohio and the several states of the United States and there has been and is now between respondent and purchasers of said bacteria a course of trade and commerce in said bacteria in and between the State of Ohio and the several states of the United States.

PAR. 2. The respondent is a member of the commercial legume inoculant industry of the United States which industry grows, sells and distributes commercial inoculants to the value of approximately \$1,000,000 in gross annual sales. There are approximately fourteen members of this industry, all competitively engaged one with the other in the sale and distribution in commerce of commercial inoculants. The bacteria are grown for the inoculation of seeds of leguminous plants. The bacteria are encouraged to multiply from various strains and are then placed in a carrier, which is either a jelly or a humus medium such as peat or charcoal, for commercial distribution. Seeds of leguminous plants are saturated with the bacteria before planting. These bacteria have the function of associating with legume plants, with the result that an adequate number of bacterial nodules are formed on the roots of the plants to extract nitrogen from the air for the purpose of aiding luxuriant growth of the plant. Principally these inoculants are placed upon alfalfa and sweet clover seeds, soy beans, peas and other legumes.

PAR. 3. Said respondent confines its sales generally to wholesale distributors and attempts to select one for each

trade area in which it sells. Such wholesalers sell to retail dealers as well as directly to farmers. Additionally respondent sells its product to the two largest mail order houses who sell to consumers throughout the United States. The respondent also sells to some farm bureaus which, however, generally do not compete with respondent's wholesale distributors. Respondent sells to a few retailers. Some of respondent's customers are competitively engaged in commerce in the resale and distribution of the inoculant product with other of respondent's customers. The farm bureaus compete with retail dealers in selling to the farmers.

PAR. 4. Respondent sells its product to its wholesalers at various prices of from 14¢ to 16¢ for the one bushel size. Retail distributors pay 30¢ for the one bushel size. Some of the product is sold on a delivered basis and some customers, paying the highest price are sold F. O. B. Columbus, Ohio. The farm bureaus all purchase at a price of 14¢ delivered. The mail order houses purchase at 20¢ delivered for the one bushel size with the privilege of returning unsold goods. The farm bureaus are not allowed to return unsold goods but may return empty cans and obtain a credit of 2¢ a can. Wholesalers may return not to exceed 10% of their annual purchases. The respondent sells to a farm bureau at 14¢ and also sells at 14¢ to a competing wholesaler. Respondent departs from its regular policy with this wholesaler and does not allow the return of goods but only the 2¢ credit for each empty can returned. However, the farm bureau purchases on a 14¢ delivered price basis whereas the competing wholesaler purchases on a 14¢ non-delivered price basis, that is in the latter instance, F. O. B. Columbus, Ohio.

PAR. 5. The granting of a lower price to some customers comparatively engaged with other customers in the resale of the inoculant is under the circumstances set forth above a discrimination in price in commerce between purchasers of respondent's product, which purchases are for use, consumption or resale within the United States.

PAR. 6. The effect of said discriminations in price may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which the respondent is engaged and in the line of commerce in which its distributors are engaged; and the effect of said discrimination may be to injure, destroy or prevent competition with the respondent and with certain favored distributors and with customers of such favored distributors.

PAR. 7. The costs of growing, selling and delivery are generally not substantially affected by quantity purchases, largely due to the practice of accepting the return of goods unsold, which returned goods are then practically valueless.

PAR. 8. The discriminations in price set forth above do not make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodity is to such purchasers sold or delivered. That such price differentials were not in response to changing conditions affecting the market for or the marketability of the goods concerned.

## CONCLUSION

The aforesaid acts and practices of respondent, as set out in Paragraph Five hereof, are in violation of Section 2 (a) of said Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C. Title 15, Section 13), and for other purposes."

By the Commission.

[SEAL]

GARLAND S. FERGUSON, Jr., Chairman.

Dated this 12th day of January, A. D. 1938.

## ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the respondent admitting all the material allegations of the complaint to be true and waiving the taking of evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusions, which findings and conclusions are hereby made a part



hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended:

It is ordered, That the respondent, Agricultural Laboratories, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of commercial inoculant in interstate commerce or in the District of Columbia, do forthwith cease and desist from the unlawful discriminations in price found in Paragraph Five of the aforesaid Findings as to the Facts and Conclusions.

It is further ordered, That the said respondent, Agricultural Laboratories, Inc., within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 38-157; Filed, January 17, 1938; 11:53 a. m.]

### United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3264]

### IN THE MATTER OF HANSEN INOCULATOR COMPANY, INC., A CORPORATION

#### FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended (U. S. C. title 15, sec. 13), the Federal Trade Commission on November 10, 1937, issued and served its complaint in this proceeding upon the respondent, Hansen Inoculator Company, Inc., a corporation, charging it with discriminating in price between different purchasers of inoculants in violation of subsection (a) of Section 2 of the aforesaid Act.

After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel having been waived, and the Commission having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and the conclusion drawn therefrom:

#### FINDINGS AS TO THE FACTS

PARAGRAPH 1. Said corporate respondent, Hansen, Inoculator Company, Inc., now is, and at all times since June 19, 1936, has been a corporation organized under the laws of the State of Illinois, with its principal office and plant located at 808 North Lincoln Avenue, Urbana, Illinois. At all times herein mentioned, said respondent has been engaged in the business of selling and distributing bacteria inoculation for the seeds of leguminous plants to customers located in the several states of the United States, more particularly to customers in states between Maine and Minnesota on the North, and Mississippi and Florida on the South, and including these named states, and there has been and is now a course in trade and commerce in said bacteria in and between the state of Illinois and the several states of the United States.

PAR. 2. The respondent is a member of the commercial legume inoculant industry of the United States which industry grows, sells and distributes commercial inoculants to the value of approximately \$1,000,000 in gross annual sales. There are approximately fourteen members of this industry, all competitively engaged one with the other in the sale and distribution in commerce of commercial inoculants. The bacteria are grown for the inoculation of seeds of leguminous plants. The bacteria are encouraged to multiply from various strains and are then placed in a carrier, which is either a jelly or a humus medium such as peat or charcoal, for commercial distribution. Seeds of leguminous plants are saturated with the bacteria before planting. These bacteria have the function of associating with legume plants, with the result that an adequate number of bacterial nodules are formed on the roots of the plants to extract nitrogen from the air for the purpose of aiding luxuriant growth of the plant. Principally these inoculants are placed upon alfalfa and sweet clover seeds, soy beans, peas and other legumes.

PAR. 3. Said respondent classifies its customers as consumers, retail dealers and jobbers. One who sells to consumers is considered to be a retail dealer and one who sells to dealers a jobber. However, in this industry there are very few distributors who sell only as dealers or jobbers. Generally distributors called jobbers sell both to consumers and to dealers. Additionally a large portion of the respondent's product is sold through farm bureaus which, in turn, sell the inoculant to farmers and occasionally to local elevators and other dealers.

PAR. 4. Some of respondent's customers are competitively engaged in commerce in the resale and distribution of the inoculant product with other of respondent's customers. The farm bureaus compete with retail dealers in selling to the farmers. Customers classified by the respondent as jobbers usually purchase in commerce respondent's inoculant, which they re-sell to consumers at a lower price than do other of respondent's customers competing for the same consumer business but who are classified and sold at retailers' list.

PAR. 5. Said respondent, Hansen Inoculator Company, Inc., issued a 1937 Distributor Price List effective January 1, 1937. Respondent has been and now is generally selling its products to its customers at such list prices less 20% off such jobbers' and dealers' lists, said distributor price list being as follows:

#### 1937 DISTRIBUTOR PRICE LIST

(Prices herein shown are effective Jan. 1, 1937, and are subject to change without notice)

#### ALFALFA, SWEET CLOVER, CLOVERS—GROUPS 1 AND 2

Size	Inoculates	Prepared in—	No. per case	Consumer price	Dealer price	Jobber price
1/4 bu.	30 lbs. seed	Humus only	12, 24, 36	\$0.35	\$0.21	\$0.14
1 bu.	60 lbs. seed	Humus or jelly	12, 24, 36	.50	.30	.20
2 1/2 bu.	150 lbs. seed	Humus or jelly	12, 24, 36	1.00	.60	.40

#### SOY BEANS, COWPEAS, GARDEN PEAS AND BEANS—GROUPS 3, 4, 5, AND 6

1 bu.	60 lbs. seed	Humus only	12, 24, 36	\$0.35	\$0.21	\$0.14
2 bu.	120 lbs. seed	Humus or jelly	12, 24, 36	.50	.30	.20
5 bu.	300 lbs. seed	Humus or jelly	12, 24, 36	1.00	.60	.40
10 bu.	600 lbs. seed	Humus only	12	1.75	1.05	.70
25 bu.	1,500 lbs. seed	Humus only	6	3.00	1.80	1.20

#### LESPEDEZA—GROUP 7

1 bu.	30 lbs. seed	Humus only	12, 24, 36	\$0.35	\$0.21	\$0.14
2 bu.	60 lbs. seed	Humus or jelly	12, 24, 36	.50	.30	.20
5 bu.	150 lbs. seed	Humus or jelly	12, 24, 36	1.00	.60	.40

#### AUSTRIAN WINTER PEAS AND VETCH—GROUP 4A

1/4 bu.	30 lbs. seed	Humus only	12, 24, 36	\$0.35	\$0.21	\$0.14
1 bu.	60 lbs. seed	Humus or jelly	12, 24, 36	.50	.30	.20
1 1/4 bu.	100 lbs. seed	Humus only	12, 24, 36	.60	.36	.24
5 bu.	300 lbs. seed	Humus only	12	1.75	1.05	.70
Garden size.	10 lbs. or less of seed.	Humus only	12	.20	.12	.08

Prices F. O. B. Urbana, Illinois. Terms: 2% 10 days, net 30 days. Left over cultures are returnable, prepaid, for credit or exchange.



The consumer's price is placed on the labels of the products. In many instances the labels, whether they bear private brand names or the Hansen name, resemble each other having green borders and background of leguminous plants and similar language. The inoculant is the same regardless of the label on the container. Prices to county farm bureaus vary and are frequently as low as 14¢ for the one bushel size.

PAR. 6. County farm bureaus retail the one bushel size frequently for 30¢ having purchased the same at 14¢, or retail the 2½ bushel size at 50¢ where they purchase at 28¢. Competing dealers pay 24¢ for the one bushel size and 48¢ for the 2½ bushel size. County farm bureaus sell to non-members also.

PAR. 7. Said respondent distributes its inoculant by means of traveling salesmen in the States of Iowa, Minnesota, Pennsylvania and Ohio. Orders obtained by the salesmen are delivered by the respondent and collections are also made by the respondent. Such salesmen work on a commission basis. These salesmen sell at varying prices which are not related to savings in cost of production, sale or delivery or functions performed by the buyer in the resale of the goods.

PAR. 8. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three and Five, of inoculant of like grade and quality to customers competitively engaged in reselling the same to consumers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondent's inoculant.

PAR. 9. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three and Five, of inoculant of like grade and quality to customers competitively engaged in reselling the same to dealers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondent's inoculant.

PAR. 10. Respondent sells to a certain dealer-jobber the one bushel size humus or jelly for 15¢ under a private brand. The dealer-jobber, in turn resells and distributes the same in commerce to consumers located in adjoining states for 35¢. The said dealer referred to herein is in competition with other dealer customers of the respondent, who are required to pay 24¢ for the one bushel size of the same inoculant sold under respondent's name. The dealer referred to advertises in commerce that the inoculator "is made for us under our own label, by a reliable manufacturer at Urbana, Illinois" and, as stated in Paragraph Five hereof, the labels are similar regardless of whether they bear the Hansen or private brand name. The differential in price amounts to and is under the circumstances set forth above a discrimination in price in commerce between purchasers of respondent's product, which purchases are for use, consumption and resale within the United States.

PAR. 11. The effect of said discriminations in price may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which the respondent is engaged and in the line of commerce in which its distributors are engaged; and the effect of said discriminations may be to injure, destroy or prevent competition with the respondent and with certain favored distributors and with customers of such favored distributors.

PAR. 12. The costs of growing, selling and delivery are generally not substantially affected by quantity purchases, largely due to the practice of accepting the return of goods unsold, which returned goods are then practically valueless.

PAR. 13. The discriminations in price set forth above do not make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodity is to such purchasers sold or delivered. That such price differentials were not in response to changing conditions affecting the market for or the marketability of the goods concerned.

#### CONCLUSION

The aforesaid acts and practices of respondent as set out in Paragraphs Eight, Nine and Ten hereof are in violation

No. 12—2

of Section 2 (a) of said Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Section 13) and for other purposes".

By the Commission.

[SEAL]

GARLAND S. FERGUSON, Jr., Chairman.

Dated this 12th day of January, A. D. 1938.

#### ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the respondent admitting all the material allegations of the complaint to be true and waiving the taking of evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusions, which findings and conclusions are hereby made a part hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended:

It is ordered, That the respondent, Hansen Inoculator Company, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of commercial inoculant in interstate commerce or in the District of Columbia, do forthwith cease and desist from the unlawful discriminations in price found in Paragraphs Eight, Nine and Ten of the aforesaid Findings as to the Facts and Conclusions.

It is further ordered, That the said respondent, Hansen Inoculator Company, Inc., within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 38-158; Filed, January 17, 1938; 11:53 a. m.]

#### United States of America—Before Federal Trade Commission

At a regular meeting of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3265]

IN THE MATTER OF ALBERT L. WHITING AND LUCILLE D. WHITING, INDIVIDUALS TRADING UNDER THE FIRM NAME AND STYLE OF "THE URBANA LABORATORIES", RESPONDENTS

#### FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C. title 15, sec. 13), the Federal Trade Commission on November 10, 1937, issued and served its complaint in this proceeding upon the respondents, Albert L. Whiting and Lucille D. Whiting, trading under the firm style and name "The Urbana Laboratories", a partnership, charging them with discriminating in price between different purchasers of inoculants in violation of subsection (a) of Section 2 of the aforesaid Act.

After the issuance of said complaint and the filing of respondents' answer, the Commission, by order entered herein, granted respondents' motion for permission to withdraw said answer and to substitute therefor an answer admitting



all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel having been waived, and the Commission having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and the conclusions drawn therefrom:

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. Said respondents, Albert L. Whiting and Lucille D. Whiting, trade under the firm style and name "The Urbana Laboratories", a partnership, and maintain their principal office and plant at 406 North Lincoln Avenue, Urbana, Illinois. At all times herein mentioned, said respondents have been engaged in the business of selling and distributing bacteria inoculation for the seeds of leguminous plants to customers located in the several states of the United States, more particularly to customers in the states located between Ohio, on the East, and Kansas, on the West, and North and South the width of the country, and there has been and is now a course of trade and commerce in said bacteria in and between the State of Illinois and the several states of the United States.

PAR. 2. Said respondents are members of the commercial legume inoculant industry of the United States which grows, sells and distributes commercial inoculants to the value of approximately \$1,000,000 in gross annual sales. There are approximately fourteen members of this industry, all competitively engaged one with the other in the sale and distribution in commerce of commercial inoculants. The bacteria are grown for the inoculation of seeds of leguminous plants. The bacteria are encouraged to multiply from various strains and are then placed in a carrier, which is either a jelly or a humus medium such as peat or charcoal, for commercial distribution. Seeds of leguminous plants are saturated with the bacteria before planting. These bacteria have the function of associating with legume plants, with the result that an adequate number of bacterial nodules are formed on the roots of the plants to extract nitrogen from the air for the purpose of aiding luxuriant growth of the plant. Principally these inoculants are placed upon alfalfa and sweet clover seeds, soy beans, peas and other legumes.

PAR. 3. Said respondents classify their customers as consumers, retail dealers and jobbers. One who sells to consumers is considered to be a retail dealer and one who sells to dealers a jobber. However, in this industry there are very few distributors who sell only as dealers or jobbers. Generally distributors called jobbers sell both to consumers and dealers. Additionally a large portion of respondents' product is sold through farm bureaus which, in turn, sell the inoculant to farmers and occasionally to local elevators and other dealers.

PAR. 4. Some of respondent's customers are competitively engaged in commerce in the resale and distribution of the inoculant product with certain other of respondents' customers. The farm bureaus compete with retail dealers in selling to the farmers.

PAR. 5. Said respondents issued a 1937 dealer price list, effective January 1, 1937. Respondents have and are generally selling their products to their customers at such list prices, said price list being as follows:

ALFALFA, SWEET CLOVERS (GROUP 2)—RED, ALSIKE, WHITE, CRIMSON, MAMMOTH CLOVERS (GROUP 1)

Quantity	1 bu. size	2½ bu. size
Each.....	\$0.38	\$0.75
1 dozen.....	.32	.65
3 dozen.....	.30	.62
Retail Price.....	.50	1.00

SOY BEANS (GROUP 5)—COWPEAS, LIMA BEANS, VELVET BEANS (GROUP 3)—PEAS, VETCHES, AUSTRIAN PEAS (GROUP 4)—BEANS (GROUP 6)

Quantity	2 bu. size	5 bu. size
Each.....	\$0.38	\$0.75
1 dozen.....	.32	.65
3 dozen.....	.30	.62
Retail Price.....	.50	1.00

## SMALLER SIZES

Quantity	Alfalfa, Sweet Clovers, ½ bu. size	Soy Beans, Cowpeas, Peas, Vetches, Beans—1 bu. size
Each.....	\$0.28	\$0.28
1 dozen.....	.22	.22
3 dozen.....	.20	.20
Retail Price.....	.35	.35

Left over cultures are returnable, prepaid, for credit or exchange.

The consumer's price is placed on the labels of the products. Prices to certain county farm bureaus vary and are frequently as low as 17¢ for the one bushel size which is sold to many dealers for 30¢ and to a number for 20¢. County farm bureaus retail the one bushel size frequently at a lower price than small independent merchants, having purchased the one bushel size at from 17¢ to 20¢ or the 2½ bushel size at from 34¢ to 40¢. A typical competitive situation disclosed one dealer selling at 50¢ and purchasing the one bushel size at 30¢. A competing dealer likewise sold at 50¢ and likewise purchased at 30¢ but had the postage paid. Another dealer, competing with the first-named, sells at 40¢ but buys at 20¢ and states that his lower price is made to meet competition created by the county farm bureau. Many county farm bureaus sell to non-members also. These county farm bureaus are direct competitors of independent retail merchants buying at higher prices. Where, in fact, jobbing services are rendered by state or county farm bureaus, nothing herein contained shall preclude jobber prices on that portion which is jobbed.

PAR. 6. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three and Five, of inoculant of like grade and quality to customers competitively engaged in reselling the same to consumers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondents' inoculant.

PAR. 7. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three and Five, of inoculant of like grade and quality to customers competitively engaged in reselling the same to dealers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondents' inoculant.

PAR. 8. The effect of said discriminations in price may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which the respondents are engaged and in the line of commerce in which their distributors are engaged; and the effect of said discrimination may be to injure, destroy or prevent competition with the respondents and with certain favored distributors and with customers of such favored distributors.

PAR. 9. The costs of growing, selling and delivery are generally not substantially affected by quantity purchases, largely due to the practice of accepting the return of goods unsold, which returned goods are then practically valueless.

PAR. 10. The discriminations in price set forth above do not make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodity is to such purchasers sold or delivered. That such price differentials were not in response to changing conditions affecting the market for or the marketability of the goods concerned.



## CONCLUSION

The aforesaid acts and practices of respondent, as set out in Paragraphs Six and Seven hereof, are in violation of Section 2 (a) of said Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C. Title 15, Section 13), and for other purposes."

By the Commission.

[SEAL]

GARLAND S. FERGUSON, Jr., *Chairman.*

Dated this 12th day of January, A. D. 1938.

## ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the respondent admitting all the material allegations of the complaint to be true and waiving the taking of evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusions, which findings and conclusions are hereby made a part hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended:

*It is ordered,* That the respondents, Albert L. Whiting and Lucille D. Whiting, trading under the firm style and name "The Urbana Laboratories", a partnership, their officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of commercial inoculant in interstate commerce or in the District of Columbia, do forthwith cease and desist from the unlawful discriminations in price found in Paragraphs Six and Seven of the aforesaid Findings as to the Facts and Conclusions.

*It is further ordered,* That the said respondents, Albert L. Whiting and Lucille D. Whiting, trading under the firm style and name "The Urbana Laboratories", a partnership, within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-159; Filed, January 17, 1938; 11:53 a. m.]

*United States of America—Before Federal Trade Commission*

At a regular meeting of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3266]

IN THE MATTER OF THE NITRAGIN COMPANY, INC., A CORPORATION

## FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), the Federal Trade Commission on November 10, 1937, issued and served its complaint in this proceeding upon the respondent, The Nitragin Company, Inc., a corporation, charging it with

discriminating in price between different purchasers of inoculants in violation of subsection (a) of Section 2 of the aforesaid Act.

After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel having been waived, and the Commission having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. Said corporate respondent, The Nitragin Company, Inc., now is, and at all times since June 19, 1936, has been a corporation organized under the laws of the State of Wisconsin, with its principal office and plant located at 3747 North Booth Street, Milwaukee, Wisconsin. At all times herein mentioned, said respondent has been engaged in the business of developing, selling and distributing certain nitrogen fixing bacteria, useful for inoculating the seeds of leguminous plants, from its said place of business in the State of Wisconsin to various purchasers of said bacteria located in the State of Wisconsin and the several states of the United States and there has been and is now between respondent and purchasers of said bacteria a course of trade and commerce in said bacteria in and between the State of Wisconsin and the several states of the United States.

PAR. 2. The respondent is the largest member of the commercial legume inoculant industry of the United States which industry grows, sells and distributes commercial inoculants to the value of approximately \$1,000,000 in gross annual sales. There are approximately fourteen members of this industry, all competitively engaged one with the other in the sale and distribution in commerce of commercial inoculants. The bacteria are grown for the inoculation of seeds of leguminous plants. The bacteria are encouraged to multiply from various strains and are then placed in a carrier, which is either a jelly or a humus medium such as peat or charcoal, for commercial distribution. Seeds of leguminous plants are saturated with the bacteria before planting. These bacteria have the function of associating with legume plants, with the result that an adequate number of bacterial nodules are formed on the roots of the plants to extract nitrogen from the air for the purpose of aiding luxuriant growth of the plant. Principally these inoculants are placed upon alfalfa and sweet clover seeds, soy beans, peas and other legumes.

PAR. 3. Said respondent classifies its customers as consumers, retail dealers and jobbers. One who sells to consumers is considered to be a retail dealer and one who sells to dealers a jobber. However, in this industry there are very few distributors who sell only as dealers or jobbers. Generally distributors called jobbers sell both to consumers and to dealers. Additionally a large portion of the respondent's product is sold through county farm bureaus, which, in turn, sell the inoculant to farmers and occasionally to local elevators and other dealers. A considerable portion of the respondent's product is also sold to mail order catalog houses who resell to consumers.

PAR. 4. Some of respondent's customers are competitively engaged in commerce in the resale and distribution of the inoculant product with other of respondent's customers. The farm bureaus compete with retail dealers in selling to the farmers. Customers classified by the respondent as



jobbers usually purchase in commerce respondent's inoculant, which they re-sell to consumers at a lower price than do other of respondent's customers competing for the same consumer business but who are classified and sold at retailers' list. Mail order catalog houses compete with retail dealers in selling to farmers.

PAR. 5. Said respondent, The Nitragin Company, Inc., issued a 1937 Distributor Price List effective January 1, 1937. Respondent has been and now is generally selling its products to its customers at such list prices. However, some mail order catalog houses and some jobbers also receive an additional 20% off jobbers' list price, said distributors' price list being as follows:

ALFALFA AND ALL CLOVERS—CULTURES "A" AND "B"

To inoculate	Jobber price	Dealer price	Consumer price
14 bu.—30 lbs.	\$0.17	\$0.23	\$0.35
1 bu.—60 lbs.	.28	.36	.55
2½ bu.—150 lbs.	.60	.78	1.20

LESPEDEZA—CULTURE "L"

1 bu.—30 lbs.	\$0.17	\$0.23	\$0.35
2 bu.—60 lbs.	.28	.36	.55
5 bu.—150 lbs.	.60	.78	1.20

SOY BEANS—CULTURE "S"—COWPEAS AND LIMA BEANS—CULTURE "E"

1 bu.—60 lbs.	\$0.17	\$0.23	\$0.35
1 bu.—120 lbs.	.28	.36	.55
5 bu.—300 lbs.	.60	.78	1.20

VETCH AND PEAS—CULTURE "C"—BEANS—CULTURE "D"

14 bu.—30 lbs.	\$0.15	\$0.20	\$0.30
1 bu.—60 lbs.	.22	.29	.45
1½ bu.—100 lbs.	.33	.42	.65
5 bu.—300 lbs.	.93	1.20	1.85

<sup>1</sup> Only culture "E" packed in this size.

Left over cultures are returnable, prepaid, for credit or exchange.

The consumer's price is placed on the labels of the products. The inoculant, whether distributed under private label or under the producer's label is of like grade and quality. Prices to county farm bureaus vary but are generally jobbers' prices and in some instances an additional 20% off the jobbers' price is allowed.

PAR. 6. County farm bureaus purchasing at jobbers' price less 20% sell in some instances to jobbers, retailers and consumers and are generally in competition with both jobbers and retailers. Certain of these competing jobbers do not receive the 20% additional discount and thus competition with the county farm bureaus, receiving the additional 20% in addition to the jobbers' discount, is practically impossible. County farm bureaus sell in competition with independent retailers to non-members as well as to their own members.

PAR. 7. Certain jobbers receiving the jobbers' price less the additional 20% sell to county farm bureaus at jobbers' prices whereas other customers not receiving the 20% additional allowance are prevented from doing so.

PAR. 8. The respondent sells to retailers who purchase \$100 or more in a year at jobbers' prices. Mail order catalog houses buy at jobbers' prices and some but not all receive an additional 20% off such jobbers' list.

PAR. 9. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three, Six and Eight, of inoculant of like grade and quality to customers competitively engaged in reselling the same to consumers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondent's inoculant.

PAR. 10. The difference in prices, resulting from the said classifications as set forth in Paragraphs Six, Seven and Eight, of inoculant of like grade and quality to customers competitively engaged in reselling the same to consumers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondent's inoculant.

PAR. 11. The effect of said discriminations in price may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which its distributors are engaged; and the effect of said discriminations may be to injure, destroy or prevent competition with the respondent and with certain favored distributors and with customers of such favored distributors.

PAR. 12. The costs of growing, selling and delivery are generally not substantially affected by quantity purchases, largely due to the practice of accepting the return of goods unsold, which returned goods are then practically valueless.

PAR. 13. The discriminations in price set forth above do not make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodity is to such purchasers sold or delivered. That such price differentials were not in response to changing conditions affecting the market for or the marketability of the goods concerned.

CONCLUSION

The aforesaid acts and practices of respondent as set out in Paragraphs Nine and Ten hereof are in violation of Section 2 (a) of said Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Section 13) and for other purposes".

By the Commission.

[SEAL] GARLAND S. FERGUSON, Jr., Chairman.

Dated this 12th day of January, A. D. 1938.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the respondent admitting all the material allegations of the complaint to be true and waiving the taking of evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusions, which findings and conclusions are hereby made a part hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended:

It is ordered, That the respondent, The Nitragin Company, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of commercial inoculant in interstate commerce or in the District of Columbia, do forthwith cease and desist from the unlawful discriminations in price found in Paragraphs Nine and Ten of the aforesaid Findings as to the Facts and Conclusions.

It is further ordered, That the said respondent, The Nitragin Company, Inc., within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 38-160; Filed, January 17, 1938; 11:53 a. m.]



## INTERSTATE COMMERCE COMMISSION.

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 6th day of January, A. D., 1938.

[Ex Parte No. MC 5]

SUPPLEMENTAL ORDER IN THE MATTER OF SECURITY FOR PROTECTION OF PUBLIC AS PROVIDED IN MOTOR CARRIER ACT, 1935, AND OF RULES AND REGULATIONS GOVERNING FILING AND APPROVAL OF SURETY BONDS, POLICIES OF INSURANCE, QUALIFICATIONS AS A SELF-INSURER OR OTHER SECURITIES AND AGREEMENTS BY MOTOR CARRIERS AND BROKERS SUBJECT TO MOTOR CARRIER ACT, 1935

Rules and regulations governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements prescribed by our

order entered in this proceeding on August 3, 1936,<sup>1</sup> and relating to the matter of security for the protection of the public, being under consideration;

It is ordered, That Rule IX of said rules and regulations prescribed by said order of August 3, 1936, be, and it is hereby, amended to read as follows:

The Commission may, at any time, refuse to accept or may revoke its approval of any surety bond, policy of insurance (or certificate of insurance in lieu thereof), qualification as a self-insurer, or other securities or agreements if, in its judgment, such security does not comply with these rules or, for any reason, fails to provide satisfactory or adequate protection for the public.

By the Commission, division 5.

[SEAL]

W. P. BARTEL, *Secretary*.

[F. R. Doc. 38-161; Filed, January 17, 1938; 12:15 p. m.]

<sup>1</sup> 1 F. R. 1164.



